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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,880	01/18/2002	Colin Beveridge	DEXNON/110/PC/US	2458

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ALIX YALE & RISTAS LLP  
750 MAIN STREET  
SUITE 1400  
HARTFORD, CT 06103

EXAMINER

PIERCE, JEREMY R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/868,880

Applicant(s)

BEVERIDGE ET AL.

Examiner

Jeremy R. Pierce

Art Unit

1771

20

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14, 17, 18 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14, 17, 18 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/21/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed on May 21, 2004 has been entered. Claims 15, 16, 19, and 20 have been cancelled. New claims 21-24 have been added. Claims 1 and 6 have been amended. Applicant's amendments to the claims and the accompanying arguments, with respect to the rejections of the pending claims have been fully considered and are persuasive. Specifically, Applicant has further defined the invention so that a second elongation of the fabric exists after treatment, which is greater than a first elongation of the fabric before treatment. Additionally, Applicant further claims the fibers, rather than solids, are treated. Therefore, the 35 USC 102 and 103 rejections have been withdrawn. However, upon further consideration, a new ground of rejection is made, as set forth below.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-14, 21, 22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Homonoff et al. (EP 557,678) in view of Pike et al. (U.S. Patent No. 5,605,749).

Homonoff et al. disclose a composite spunbonded fabric that is useful in molding substrates and disposable apparel (page 2, lines 7-8). The composite fabric comprises a nonwoven spunbonded base layer (page 3, lines 39-40) and a tissue web cover layer (page 4, lines 26-28). The multilayer structure is subjected to hydroentanglement to bond layers together (page 3, line 26). Homonoff et al. do not disclose adding a treatment composition comprising silicones, silicone derivates, or quaternary ammonium compounds. Pike et al. disclose the hydrophilicity of a fabric may be improved by adding silicone surfactants in an amount between 0.1 and 5% (column 6, line 52 –column 7, line 30). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include silicone treating agent into the fabric of Homonoff et al. in order to give the fabric increased hydrophilicity, as taught by Pike et al. With regard to the elongation limitation in claim 1, although neither Homonoff et al. nor Pike et al. explicitly teach the limitation of greater elongation after treatment, it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. nonwoven fibrous layers entangled) and in the similar production steps (i.e. treatment with a silicone textile treating agent) used to produce the fabric. The burden is upon the Applicant to prove otherwise. With regard to claim 2, Homonoff et al. disclose the base layer can be polyamide, polyester, or polyolefin (page 3, line 50). With regard to claim 3, Pike et al. disclose that carded staple fiber webs may be equally useful as spunbonded fabrics (column 2, lines 13-24). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use a carded fabric rather than a spunbonded

fabric in Homonoff et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. With regard to claim 5, Homonoff et al. disclose the spunbonded fabric may weigh between 15 and 90 gsm (page 3, line 41). With regard to claims 6-8, the cover layer may be made from sisal, jute, or hemp (page 4, line 47). With regard to claim 9, the cover layer can be wet laid (page 4, line 38). With regard to claim 10, the cover layer may weigh between 10 and 60 gsm (page 5, lines 1-2).

4. Claims 1, 2, 4-14, 21, 22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Homonoff et al. in view of Zotto (U.S. Patent No. 4,781,973).

Homonoff et al. disclose a composite spunbonded fabric that is useful in molding substrates and disposable apparel (page 2, lines 7-8). The composite fabric comprises a nonwoven spunbonded base layer (page 3, lines 39-40) and a tissue web cover layer (page 4, lines 26-28). The multilayer structure is subjected to hydroentanglement to bond layers together (page 3, line 26). Homonoff et al. do not disclose adding a treatment composition comprising silicones, silicone derivatives, or quaternary ammonium compounds. Zotto discloses organopolysiloxane resins that may be used as a fabric treatment in order to improve water, oil, and dirt resistance (column 1, lines 51-58). Zotto discloses the composition may be applied in an amount of 2 to 10% by weight (column 5, lines 38-40). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include organopolysiloxane treating agent into the fabric of Homonoff et al. in order to give the fabric increased water, oil, and dirt resistance, as taught by Zotto. With regard to the elongation limitation in claim 1,

although neither Homonoff et al. nor Zotto explicitly teach the limitation of greater elongation after treatment, it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. nonwoven fibrous layers entangled) and in the similar production steps (i.e. treatment with a organopolysiloxane textile treating agent) used to produce the fabric. The burden is upon the Applicant to prove otherwise. With regard to claim 2, Homonoff et al. disclose the base layer can be polyamide, polyester, or polyolefin (page 3, line 50). With regard to claim 5, Homonoff et al. disclose the spunbonded fabric may weigh between 15 and 90 gsm (page 3, line 41). With regard to claims 6-8, the cover layer may be made from sisal, jute, or hemp (page 4, line 47). With regard to claim 9, the cover layer can be wet laid (page 4, line 38). With regard to claim 10, the cover layer may weigh between 10 and 60 gsm (page 5, lines 1-2).

5. Claims 17, 18, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Homonoff et al. in view of Zotto as set forth above in section 4 and further in view of Spengler et al. (U.S. Patent No. 5,709,925).

Homonoff et al. disclose using the fabric in a molded substrate, but do not disclose additional layers that would be used in that purpose. Spengler et al. disclose using a decorative layer and foam layer in addition to the fibrous layer when making a molded substrate for a door panel (column 3, lines 5-59). It would have been obvious to a person having ordinary skill in the art at the time of the invention to provide an additional form layer and a decorative layer to the fibrous layer of Homonoff et al. in

order to provide sufficient padding and good aesthetics when applying the substrate into a molded part, as taught by Spengler et al.

### ***Response to Arguments***

6. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (571)

Application/Control Number: 09/868,880  
Art Unit: 1771

Page 7

272-1479. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*JRP*  
JRP

*Elizabeth M. Cole*  
ELIZABETH M. COLE  
PRIMARY EXAMINER